DOCID: 4115637

Phillips Pamela N NSA-DJ4 USA CIV

From: Phillips Pamela N NSA-DJ4 USA CIV (b)(3)-P.L. 86-36
Sent: Monday, June 17, 2013 8.50 AM
To: Sherman David J Dr NSA-DJ USA CIV
Cc: Blaskowski Paul J NSA-DJ4 USA CIV; [redacted] NSA-D28 USA CIV; [redacted] NSA-DJ2 USA CIV; [redacted] NSA-DJ2 USA CIV; [redacted] NSA-DJ2 USA CIV; [redacted] NSA-DJ USA CIV; [redacted] NSA-DJ USA CIV, Phillips Pamela N NSA-DJ4 USA CIV
Subject: RE (U) language for requests for metadata/call detail records
Signed By: pnphill@nsa ic gov

Classification: UNCLASSIFIED~~//FOR OFFICIAL USE ONLY~~

Dave,

(U~~//FOUO~~) I like your suggested changes below. What do we need to do to have this officially blessed so that I can provide this to my folks to start responding to the requests?

(U~~//FOUO~~) And is there any further decision yet on an Unclassified Fact Sheet that can be provided to FOIA requesters (I know there are several out there for talking points, Congress, etc , but I don't know that approval has been given to proactively provide any to anyone else yet). Thanks.

Pamela

(U)
Pamela N. Phillips
Chief, DJ4
Freedom of Information Act/Privacy Act Office
Ops2A1118, Suite 6248
966-4071s [redacted] (U)

From: Sherman David J Dr NSA-DJ USA CIV
Sent: Friday, June 14, 2013 6:10 PM
To: Phillips Pamela N NSA-DJ4 USA CIV
Cc: Blaskowski Paul J NSA-DJ4 USA CIV; [redacted] NSA-D28 USA CIV; [redacted] NSA-DJ2 USA CIV; [redacted] NSA-DJ2 USA CIV; [redacted] NSA-DJ USA CIV; [redacted] NSA-DJ USA CIV
Subject: RE: (U) language for requests for metadata/call detail records

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(U~~//FOUO~~) I personally believe the information contained below is unclassified I have a few suggestions on the wording which we can discuss. Dave

David J. Sherman
Associate Director for Policy and Records
National Security Agency (b)(3)-P.L. 86-36
Room 2A0858
djsherm@nsa.ic.gov
969-2850 (secure)
[redacted] (commercial)

From: Phillips Pamela N NSA-DJ4 USA CIV
Sent: Friday, June 14, 2013 4:28 PM
To: Sherman David J Dr NSA-DJ USA CIV
Cc: Blaskowski Paul J NSA-DJ4 USA CIV; Phillips Pamela N NSA-DJ4 USA CIV; [redacted] NSA-D28 USA CIV [redacted]

Approved for Release by NSA on 05-02-2014, FOIA Case # 75752

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[redacted] NSA-DJ2 USA CIV; [redacted] NSA-DJ2 USA CIV; [redacted] NSA-DJ USA CIV; [redacted] NSA-DJ USA CIV

Subject: FW: (U) language for requests for metadata/call detail records
Importance: High

(b)(3)-P.L. 86-36

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Dave and team,

(U~~//FOUO~~ [redacted] has pieced together some language on the recent press coverage that would allow us to make a reasonable response to individuals who are seeking information on themselves (either broadly stated as "all records on me," or more narrowly focused to information regarding their phone number, metadata, or phone calls). It still ends up being a GLOMAR response, but more focused on the programs at hand [redacted] It is consistent with how we've always treated requests from US persons for NSA information (other than Privacy Act information).

(U~~//FOUO~~) I have made a couple of changes to keep our response in line with how we typically respond to FOIAs (in blue) and have included the exemption language for your review. I am not sure who has final authority to approve our use of this response, but we need to begin responding to these individual requests due to the volume that continues to come in (we have close to 300 requests from individuals that we haven't begun to process yet).

(U~~//FOUO~~) Please let us know your thoughts as to the language in the letter to be sure that a) it is UNCLASSIFIED, and b) it is consistent with other messages being put out there. Our preference would also be to include an UNCLASSIFIED fact sheet with our responses once that is approved and finalized. But if that's not ready, and the letter is OKed, we'll just go with this.

Pamela

(U)
Pamela N. Phillips
Chief, DJ4
Freedom of Information Act/Privacy Act Office
Ops2A1118, Suite 6248
966-4071s [redacted] (U)

(b)(3)-P.L. 86-36
(b)(5)

From: [redacted] NSA-D28 USA CIV
Sent: Friday, June 14, 2013 2:59 PM
To: Phillips Pamela N NSA-DJ4 USA CIV
Subject: (U) language for requests for metadata/call detail records

(b)(3)-P.L. 86-36

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Pamela,

Here are my thoughts on a response for telephony metadata, call detail records, etc.:

Dear Requester:

This responds to your FOIA request of DATE for all records on you (or whatever the requester stated regarding intercept or phone number or metadata).

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(b)(5)

[This is our current language, and we may want to still include it up front...]

[redacted]

(b)(3)-P.L. 86-36
(b)(5)

Therefore, your request is denied because fact of the existence or non-existence of responsive records is a currently and properly classified matter in accordance with Executive Order 13526, as set forth in Subparagraph (c) of Section 1.4. Thus, your request is denied pursuant to the first exemption of the FOIA, which provides that the FOIA does not apply to matters that are specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign relations and are properly classified pursuant to such Executive Order.

Moreover, the third exemption of the FOIA provides for the withholding of information specifically protected from disclosure by statute Thus, your request is also denied because the fact of the existence or non-existence of the information is exempted from disclosure pursuant to the third exemption. The specific statutes applicable in this case are: Title 18 U.S. Code 798; Title 50 U.S. Code 3024(i) (formerly Title 50 U.S. Code 403-1(i)); and Section 6, Public Law 86-36 (50 U.S. Code 3605, formerly 50 U S Code 402 note).

[Appeal paragraph here]

If we have misinterpreted your request and you have been affiliated with the NSA in some way as an employee, applicant, or visitor and are looking for records related to those activities, you may submit a signed Privacy Act request to seek that type of information. If you provide a Social Security number, it will assist us with the search for responsive records.

This is preliminary given that no declassification determinations have been made.

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[redacted] (b)(3)-P.L. 86-36

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